

IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

FIRST FINANCIAL INVESTMENT
FUNDING V, L.L.C.,

Plaintiff,

vs.

SELWYN JOHNSON,

Defendant.

CIVIL ACTION FILE

NUMBER 18A70172

STATE COURT OF
DEKALB COUNTY, GA

2018 SEP 18 AM 11:58

FILED

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MOTION TO DISMISS COUNTERCLAIM

COMES NOW FIRST FINANCIAL INVESTMENT FUNDING V, L.L.C. ("FFIF"), the Plaintiff in the above-styled civil action, and hereby files this Motion to Dismiss Counterclaim (the "Motion") and shows this honorable Court in support thereof as follows:

O.C.G.A. § 9-11-12 allows for a motion to dismiss a counterclaim where there has been a failure to state a claim upon which relief could be granted. Under Georgia's Civil Practice Act (the "CPA"), a pleading should not be dismissed for failure to state a claim unless it appears beyond doubt that the pleader can prove no set of facts in support of his claim that would entitle him to relief. Skelton v. Skelton, 251 Ga. 631, 308 S.E. 2d 838 (1983). For purposes of the CPA, a counterclaim stands on the same footing as an original claim. Grant v. Fourth National Bank of Columbus, 229 Ga. 855, 194 S.E. 2d 913 (1972); Applied Ecological Systems, Inc. v. Weskem, Inc., 212 Ga. App 65, 441 S.E. 2d 279 (1994). The counterclaim must set forth only an allegation of injury resulting from another's actions. Rothstein v. L.F. Still & Co., 181 Ga. App. 113, 351 S.E. 2d 513 (1986).

EXHIBIT

9

However, there must be some factual allegations of another's improper actions. See Moultrie v. Atlanta Federal Savings & Loan Association, 148 Ga. App. 650, 252 S.E. 2d 77 (1979)

The Defendant's Counterclaim merely alleges in paragraphs 1-4 that there was an alleged contract for medical services, there was an alleged bill for such services, there was an alleged assignment of the bill to Plaintiff herein, and that Plaintiff filed suit for an amount allegedly due on such bill. That is all of the factual allegations contained in the Counterclaim. Defendant then proceeds with what appears to be six counts with conclusory statements of violations of various laws, but Defendant never even attempts to explain factually what the violation or violations were. As a result, the counterclaim should be dismissed, or at a minimum Defendant should be ordered to provide a more definite statement of his claim.

WHEREFORE, Plaintiff prays that the Court enter an Order dismissing the counterclaim in this civil action.

Respectfully submitted this 13TH day of September, 2018.

JOHNSON LEGAL OFFICES, L.L.C.

By: 

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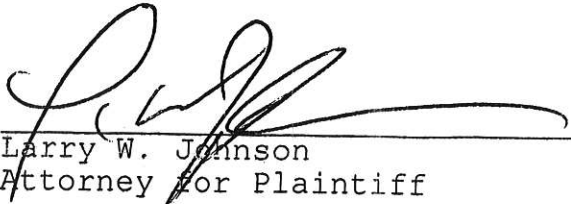
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing MOTION TO DISMISS COUNTERCLAIM was served upon the following by mailing same by United States First Class Mail in a properly addressed envelope with adequate postage affixed thereon to insure delivery, addressed as follows:

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This 13TH day of September, 2018.


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